Program Alternatives under 36 CFR Part 800

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Section 106

- ***The Council, under Section 211 of the National Historic Preservation Act is authorized to promulgate regulations necessary to govern Section 106 implementation***

- ***36 CFR Part 800, Protection of Historic Properties, is the Council's regulation that guides Federal agencies under Section 106 of NHPA***

What is Section 106?

- ***A <u>consultative process</u>, set out in §§ 800.3 – 800.6, in which identified consulting parties, including the public, work together with any agency to:***

  - *Identify historic properties and evaluate their significance*
  - *Assess potential adverse effects to significant properties resulting from a Federal undertaking*
  - *Resolve adverse effects by avoiding,*

Program alternatives

- ***Section 800.14 allows agencies to use program alternatives in lieu of the standard Section 106 review process -***
  - ***Alternate procedures***
  - ***Programmatic agreements***
  - ***Exempted categories***
  - ***Standard treatments***
  - ***Program comments***

Alternate Procedures – 800.14(a)

- ***Only alternate procedure approved by ACHP is with Army (July 31, 2001)***
- ***Alternate procedures replace subpart B of the ACHP regulations -***
  - ***Initiation of the process***
  - ***Identification and evaluation historic properties***
  - ***Assessment and resolution of adverse effects***
  - ***Emergencies and unanticipated discoveries***
  - ***Integration of NEPA and NHPA***

Alternate Procedures – 800.14(a)

- ***Army Alternate Procedures (AAPs)***
  - ***Upfront consultation on management plan rather than case-by-case review***
  - ***Integration of NEPA and NHPA***
  - ***Projects use Standard Operating Procedures for historic preservation compliance***
  - ***Requires monitoring and oversight***
  - ***Provides agency wide exemptions for unexploded ordnance and haz-tox situations***
  - ***Resolution process for stakeholder objections***

Programmatic Agreements – 800.14(b)

- **Most often used program alternative**
- **Some nationwide and regional PAs but most are at installation level**
  - **Historic Buildings PAs**

    Used for general maintenance and repair

    Usually outline exempted activities
  - **Archeology PAs**

    Used for survey and evaluation
  - **Both types typically require additional consultation for adverse effects**

Programmatic Agreements – 800.14(b)

- ***Prototype PAs are a special class of PAs***
- ***ACHP can designate an agreement as a prototype***
- ***Prototype PAs can then be used for similar actions in other areas***
- ***Agency may use prototypes without need for further ACHP involvement or signature on agreement documents***

Programmatic Agreements – 800.14(b)

- ***Army has proposed using prototype PA for BRAC. Prototype PA will:***
  - ***Focus on closures***
  - ***Standardize activities associated with typical closure process***
  - ***Allow more centralized control over what is needed and timetables for completion***
  - ***Allow for stakeholder consultation to tailor prototype to specific installation properties and local needs***

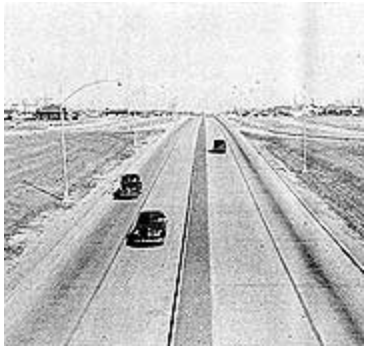
Exempted Categories – 800.14(c)

- ***Allows programs or categories of undertakings to be exempt from Section 106 review***
- ***Potential effects on historic properties must be foreseeable and minimal or not adverse***
- ***Can be conditioned to apply or not apply under certain circumstances***

Exempted Categories – 800.14(c)

- ***ACHP issued Exempted Categories***

  - ***Natural gas pipelines***



  - ***National Interstate Highway System***

Exempted Categories – 800.14(c)

- ***Indirect exemption given through the AAPs for imminent threats to human health and safety***
  - ***In place disposal of unexplod ordnance***
  - ***Ordnance disposal in open burning/detonation areas***
  - ***Emergency response to haz-t situations***
  - ***Military activities in dudded impact areas***

- ***Army is considering request to extend AAP exemption to all Army installations***

Standard Treatments – 800.14(d)

- ***Method of treating in a standardized way***
  - ***A category of historic property***
  - ***A category of undertakings, or***
  - ***A category of effect***
- ***Standard treatments may modify the Section 106 process or simplify its steps to assist agencies in meeting compliance requirements***
- ***No standard treatments currently in place***

Standard Treatments – 800.14(d)

- ***Navy has prepared a DoD Legacy proposal to deve standard treatment for building maintenance***
- ***DoD may request future ACHP approval***
- ***Ultimate goal:***
  - ***Integrate standard treatment into DoD's unified facilities criteria (UFC) which are used for all DoD projects***
  - ***Provide better upfront incorporation of historic preservation treatments into project planning and design***

Program Comments – 800.14(e)

- ***Wherry and Capehart milita family housing for DoD is program comment issue by ACHP to date***

- ***Process allows agencies to request a single program comment to cover a large group of similar undertakings***
- ***Replaces the need for case-by-case review of individual undertakings under §§ 800.4 – 800.6***

Program Comments – 800.14(e)

- **Proposed program comments:**
  - **DoD Unaccompanied Personnel Housing**
  - **DoD Ammunition Storage Facilities**
  - **Army Ammunition manufacturing facilities**
  - **Army Dudded impact areas**
  - **Navy Management of National Register Ships**

Why are program alternatives not used more frequently?

- ***Most program alternatives are geared toward headquarters development for agency-wide use***

- ***Requires agency headquarters to***
  - ***Champion the concept***
  - ***Provide the resources (people and funds)***
  - ***Develop supporting data (historic contexts)***
  - ***Conduct public outreach/consultation***
  - ***Perform required studies/mitigation***

Program Alternatives
What are the benefits?

- **Streamline section 106 process to:**
  - **Better meet agency missions & goals**
  - **Adapt to agency structure**
  - **Reduce administrative burdens & costs**
  - **Respond more quickly to project needs**
  - **Better manage historic assets**

For Further Information

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